

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE DELTA DENTAL ANTITRUST LITIGATION

CIVIL ACTION NO.

1:19-cv-06734

DEFENDANTS' NOTICE OF RELATED CASE

Pursuant to the Initial Case Management Order (“CMO”) entered by the Court on November 25, 2019 (Dkt. 95), Defendants, through their undersigned counsel, hereby submit this Notice of Related Case.

On April 3, 2020, the following case was filed in the U.S. District Court for the Northern District of Illinois: *Deep and Daughtry, PC, et al. v. Delta Dental Insurance Co., et al.*, Case No. 1:20-cv-02124 (“*Deep and Daughtry*”). The plaintiffs in the *Deep and Daughtry* case are represented by Foote, Mielke, Chavez & O’Neil, LLC and Wiggins, Childs, Pantazis, Fisher & Goldfarb, LLC. The case is currently assigned to Judge Andrea Wood. A true and correct copy of the Complaint is attached hereto as Exhibit A.

The *Deep and Daughtry* Complaint alleges substantially overlapping claims as those brought in the consolidated *In re Delta Dental Antitrust Litigation* cases. Like the complaints that have been consolidated before this Court, the *Deep and Daughtry* Complaint alleges antitrust violations based on claims of “market allocation,” Ex. A at pp. 35-38, “price fixing,” *id.* at pp. 38-40, and “revenue restriction,” *id.* at pp. 40-41. The Complaint also purports to bring the case as a putative class action on behalf of “[a]ll Delta Dental Providers, not owned or employed by any of the Defendants, that provide dental goods or services within the United States.” *Id.* at p. 55.

Furthermore, the *Deep and Daughtry* Complaint names over 50 Delta Dental defendants, substantially similar to the defendants that were originally named in the consolidated cases.

Defendants further note that on March 27, 2020, the Judicial Panel on Multidistrict Litigation transferred to this Court additional cases pending outside this District pursuant to 28 U.S.C. § 1407. *See In re Delta Dental Antitrust Litig.*, MDL No. 2931 (J.P.M.L.), Dkt. 168. Defendants have not notified the Panel of the pendency of the *Deep and Daughtry* complaint because the Panel rules do not require notification of potential tag-along actions filed in the transferee district. *See JPML Rule 7.2(a)*. Nevertheless, for the same reasons as above, Defendants believe that the *Deep and Daughtry* case should be included as a member case in MDL No. 2931.

Under the CMO, the consolidated complaint filed with this Court “shall serve as the operative class action complaint, and the Defendants shall not be required to answer or otherwise respond to any other class action complaint filed to date or transferred into this Court.” *See* Dkt. 95 ¶ 18. Accordingly, pursuant to the CMO, we hereby notify the Court and Plaintiffs of this related case and respectfully request the *Deep and Daughtry* Complaint be consolidated with the instant action and included as a member case in MDL No. 2931.

Dated: April 7, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020, I caused a true and correct copy of the foregoing DEFENDANTS' NOTICE OF RELATED CASE to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of E-Filing" to the attorneys of record in this case.

/s/ Britt M. Miller

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